

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 68 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA and
MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

COMMISSIONER OF INCOME TAX

Versus

DINESH MILLS LTD.

Appearance:

Mr. P.K.Jani with MR MANISH R BHATT for Petitioner
MR JP SHAH for Respondent No. 1

CORAM : MR.JUSTICE N.J.PANDYA and
MR.JUSTICE S.D.PANDIT

Date of decision: 16/08/96

ORAL JUDGEMENT

Though proposed by the Department, the Tribunal referred only one question which reads as under:

Whether, on the facts and in the circumstances of

the case, the Tribunal was right in law in coming to the conclusion that the assessee was entitled to claim under Sec.37(2B) of the Income-tax Act, 1961 allowance in respect of the sum of Rs.20,540/- incurred as entertainment expenditure?"

As could be gathered from the contents of the said question, the dispute revolves around allowance or otherwise of the expenditure to the tune of Rs.20,540/incurred as entertainment expenditure. It is required to be dealt with under Sec.37 of the Income-tax Act, 1961 which came to be amended on and from 1-4-1976. The law, therefore, to be applied on and after 1-4-1976 would be the amended provision.

2. The said amount claimed by the assessee respondent is for the period after the said date namely 11-4-1976. Inspite of this situation, the matter came to be dealt with at the relevant time by the concerned authorities under the Income-tax Act in accordance with a decision of this Court reported in 106 ITR 424 known as Patel Oil Mill's case. Incidentally. It may be mentioned that the decision of this Court came to be confirmed in 215 ITR 165.

3. However, it is obvious that in view of the said amendment from the date on and after 1-4-1976, the question of allowing or disallowing either the entire amount or the part will have to be dealt with in accordance with the said amendment. The decisions referred to above therefore, will not help the assessee and the matter will have to go back to the Department for being dealt with in accordance with relevant provisions of I.T.Act. It is understood that the assessee will have to be heard on allowing or disallowing either part or the full amount and the matter will be dealt with by the concerned authorities thereafter in accordance with law and on merits of the case. The question is therefore, answered in favour the Department accordingly. The reference stands disposed of with no order as to costs.
